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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 15 2006

In re)
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Cellular Network Partnership d/b/a)
Pioneer Cellular)
)
Petition for Waiver of Deadline)
In 47 C.F.R. 54.307(c))
)
Waiver – expedited action requested)

Federal Communications Commission
CC Docket No. 96-45
Office of Secretary

**PETITION OF CELLULAR NETWORK PARTNERSHIP
D/B/A PIONEER CELLULAR
FOR WAIVER OF DEADLINE IN 47.C.F.R. 54.307(b)**

Cellular Network Partnership d/b/a Pioneer Cellular (“Pioneer Cellular”) pursuant to Section 1.3 and 1.925 of the Commission’s Rules, 47 C.F.R. §1.3, and 47 C.F.R. §1.925, hereby petitions the Commission for waiver of the September 30, 2005 filing deadline for High Cost Loop, Local Switching Support, Long Term Support and Interstate Common Line Support reported data set forth in Section 54.307(c) of the Commission’s rules and requests the Commission accept its September 30, 2005 High Cost Loop, Local Switching Support, Long Term Support and Interstate Common Line Support, hereafter referred to as High Cost Fund Support (HCF) Line Count data submissions as timely.

The grant of the requested waiver will well serve the public interest by ensuring that the Commission’s fundamental universal service policies are carried out and not impeded because of an apparent delay in the mail. As discussed below, Pioneer Cellular submitted its HCF Line Count data to USAC well in advance of the September 30, 2005 deadline. Within the past two weeks Pioneer Cellular learned from USAC that it would not treat the Pioneer Cellular submission as timely-filed, thereby giving rise to the need for this waiver request.

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Pioneer Cellular has been designated an Eligible Telecommunications Carrier ("ETC") in the State of Oklahoma for receipt of Federal USF by the Oklahoma Corporation Commission on March 1, 2005, by Order No. 501835, issued in Cause No. PUD 200400464¹. Pioneer Cellular is eligible to receive High Cost Fund Support and Interstate Access Support (IAS) as a Commercial Mobile Radio Service (CMRS) provider. Pioneer Cellular operates as a CMRS provider with Study Area Code 439013.

Pioneer Cellular has, in reliance on its designation as an ETC, committed to significant capital investment to expand the scope and quality of the service throughout its service area. In the absence of the grant of this waiver request, the very purpose of both the FCC's universal service rules and the designation of Pioneer Cellular as an ETC will be frustrated.

Pioneer Cellular² is a CMRS carrier providing service to over 40,000 customers in its rural service areas of Alfalfa, Beckham, Blaine, Caddo, Canadian, Comanche, Cotton, Creek, Custer, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Hughes, Jackson, Jefferson, Kay, Kingfisher, Kiowa, Logan, Major, McLain, Noble, Payne, Roger Mills, Stephens, Tillman, Washita, Woods, and Woodward counties in Oklahoma. Pioneer Cellular has already made substantial investment in facilities to provide competitive service to its customers in the community in its rural service area, and it has specific capital investment plans for year 2006 which are dependent on receipt of the anticipated USF.

¹ *Application of Cellular Network Partnership d/b/a Pioneer/Enid Cellular for Designation as an Eligible Telecommunications Carrier Pursuant to the Telecommunications Act of 1996*, Final Order Granting ETC Designation; Cause No. PUD 200400464, Order No. 501835.

² Pioneer Cellular is a partnership composed of four members: Hinton Telephone Company, Inc. ("Hinton"), KanOkla Telephone Association, Inc. ("KanOkla"), Pioneer Telephone Cooperative, Inc. ("Pioneer") and South Central Telephone Association ("South Central"). KanOkla and South Central are rural incumbent local exchange carriers ("ILECs") regulated by the Kansas Corporation Commission and the Oklahoma Corporation Commission ("OCC") as public utilities. Hinton and Pioneer are rural ILECs regulated by the OCC. Each of these companies has established a separate subsidiary to operate business units outside the ILEC service areas. The partners of Pioneer Cellular are these separate affiliates.

It was not until recently that Pioneer Cellular learned that USAC did not deem the Pioneer Cellular HCF line count data to be timely filed. In early March of this year, Pioneer Cellular contacted USAC to determine why its USF distribution was not commensurate with the expected funding. In response, USAC representatives indicated to Pioneer Cellular for the first time that disbursements were not made to Pioneer Cellular because the Pioneer Cellular HCF line count data for the third quarter filing for 2005 was not received by the filing date.³ USAC explained that, as a result of the alleged failure of Pioneer Cellular to meet the filing date, Pioneer Cellular would be ineligible for HCF for the First Quarter of 2006 in the absence of a grant of the requested waiver.

On September 23, 2005,⁴ Pioneer Cellular filed with the Universal Service Administration Company (USAC), its High Cost Loop, Local Switching Support, and Long Term Support Line Counts, Interstate Common Line Support Form 525 and Interstate Access Support Line Count Report in one envelope via first-class U.S. mail. In recent conversations with USAC representatives, USAC explained that the filing was not received by USAC until October 3, 2005.

Pioneer Cellular understands very well the extreme importance of timely data and certification filings by all ETCs, and regrets that the receipt of its filing at USAC was unduly delayed. The Pioneer Cellular staff representative who transmitted the filing by U.S. mail believed that the September 23, 2005 mailing would arrive in a timely basis prior to the September 30, 2005 deadline. In the prior filings made subsequent to the designation of Pioneer

³ On March 2, 2006, Nick E. Kretchmar, Director of Finance for Pioneer Cellular was informed by their Accounting Manager that Pioneer Cellular's Federal USF had not been received for the third quarter of 2005. Mr. Kretchmar promptly called USAC and was informed that they would not be receiving any Federal USF for the third quarter 2005 because their line count was not received until October 3, 2005.

⁴ See the attached affidavit of Nick E. Kretchmar, Director of Finance for Cellular Network Partnership d/b/a Pioneer Cellular.

Cellular as an ETC, the filing was always sent and received by USAC on a timely basis. As in this instance, those prior filings were made by U.S. mail transmitted one week in advance of the filing deadline.

While Pioneer Cellular fully accepts responsibility for the late receipt of the filing transmitted to USAC by U.S. mail on September 23, 2005, Pioneer Cellular respectfully maintains that under these facts and circumstances, the strict application of the rule would be inequitable, unduly burdensome and contrary to the public interest. The result of strictly applying the filing requirement rule would be that rural consumers may be delayed in their access to new wireless infrastructure that Pioneer Cellular planned to deploy through the utilization of the anticipated distribution from the USF.

The result of leaving Pioneer Cellular ineligible for first quarter 2006 HCF distribution is a harsh penalty to both Pioneer and its rural customers. USAC's indication that it did not receive the filing until October 3, 2005, one business day past the September 30, 2005 deadline, was not a matter of negligence, carelessness or forgetfulness on the part of Pioneer Cellular. It is a matter that arises and results from the reasonable reliance of Pioneer Cellular on the U.S. mail service to deliver the filing sent on September 23, 2005, on a timely basis. In order to ensure that this result does not reoccur, Pioneer Cellular will transmit future filings to USAC via e-mail with receipt requested or a more expensive overnight delivery service that will provide verified delivery to USAC.

The Universal Service Support for Pioneer Cellular is approximately \$116,000 per month. As previously indicated, in anticipation of the receipt of these USF revenues, Pioneer Cellular has planned the deployment of additional facilities to enhance the level and quality of universal service provided to its rural customers. Not receiving the High Cost Funds during the

first quarter of 2006 may adversely affect Pioneer Cellular's ability to deploy the planned infrastructure improvements consistent with the permissible utilization of Federal USF for the provision, maintenance, and upgrading of facilities and services for which the support is intended. To date, the Federal USF dollars Pioneer Cellular has received have been used to construct and build out its network as intended under the Communications Act of 1934, as amended, and the USF rules and policies adopted by the Commission.

Consistent with its designation as an ETC, and the appropriate utilization of USF, Pioneer Cellular completed in December 2005 the installation of thirty-two (32) new cell sites in its rural cellular coverage area. Similarly, Pioneer Cellular has a build out plan to install over 115 additional cell sites to improve further the level and quality of service in its service area. The timely deployment of this planned construction, however, is based on the expectation of receipt of the USF revenues distributed to it consistent with its status as an ETC. The grant of the waiver requested will ensure that Pioneer Cellular has the financial resources necessary to maintain the planned construction schedule.

Section 1.3 of the Commission's rules provides the Commission with discretion to waive application of any of its rules upon showing of good cause. In addition, Section 1.925(b)(3) provides that the Commission may grant a waiver request if it is shown that:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁵

⁵ 47 C.F.R. Sec. 1.925(b)

In this instance, both of the above-cited criteria are met. The reasonableness of the Commission's rules requiring timely data submissions by ETCs is neither questioned nor compromised. There is no factual question of the good faith intent of Pioneer Cellular to comply with the filing requirement on a timely basis. Denying USF revenues to Pioneer Cellular because of the failure of the September 23, 2005 mailing to reach USAC on a timely basis will, however, frustrate the underlying purpose of the Commission's rules regarding the distribution and utilization of USF.

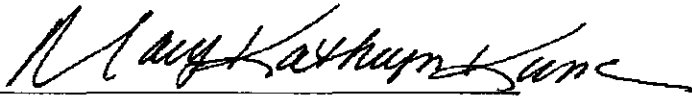
Waiver of the rule under these circumstances will ensure that Pioneer Cellular may maintain its infrastructure deployment plan on a timely basis. Moreover, the waiver of the rule under these circumstances should not frustrate the purpose of the strict filing date deadlines to the extent that the purpose of the filing requirement is to ensure that the Commission and USAC are able properly to project, collect, and distribute all universal service mechanisms in a timely and accurate manner.

The Pioneer Cellular filing was submitted in good faith on September 23, 2005; USAC reports that it received the filing on October 3, 2005. While Pioneer has learned not to rely again on U.S. Mail, the factual circumstances demonstrate that USAC did have the required information by October 3, 2005, only one business day beyond the filing date, and, accordingly, the information was available to USAC for utilization in preparation of its projections. Pioneer did not understand from USAC that its filing was deemed to be late until early March, 2006 and it is acting expediently to seek this waiver.

Pioneer Cellular respectfully submits that an interruption in the distribution of its HCF support for an entire quarter will frustrate the underlying purpose of the Commission's Universal Service Fund rules and policies, and that waiver is warranted under the instant factual circumstances. Accordingly, Pioneer Cellular submits that good cause exists for the grant of the requested waiver, and requests expedited action on this request in order to ensure that the rural customers of Pioneer Cellular, in accordance with the Commission's universal service policies, will benefit on an uninterrupted basis from the distribution of USF.

Respectfully Submitted,

CELLULAR NETWORK PARTNERSHIP DB/A
PIONEER CELLULAR

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AFFIDAVIT

STATE OF OKLAHOMA)
)
COUNTY OF KINGFISHER) ss.

I, Nick E. Kretchmar, Director of Finance for Cellular Network Partnership d/b/a Pioneer Cellular ("Pioneer Cellular"), being duly sworn, hereby states as follows:

I hereby state and affirm that on the 23rd day of September, 2005, I mailed, via United States Postal Service ("US Mail"), Pioneer Cellular's High Cost Loop, Local Switching Support, and Long Term Support Line Counts, Interstate Common Line Support Form 525 and Interstate Access Support Line Count Report, postage prepaid, to Universal Service Administrative Company (USAC).

I further state and affirm that consistent with prior practices, I utilized the US Mail for transmission of Pioneer Cellular's 2005 first and second quarter Line Count Reports to USAC that were received timely; and I had no reason to not rely on the US Mail for timely delivery.

I further state and affirm that Pioneer Cellular was not informed by USAC that Pioneer Cellular's Form 525 was not received by the September 30, 2005 deadline. Rather, when Pioneer Cellular did not receive the Federal USF payment that was anticipated, I contacted USAC in early March, 2006, and a representative informed me that our Line Count Report was not received until October 3, 2005.

I further state and affirm that for all future quarterly line count reporting to USAC, I will utilize e-mail, overnight mail, or delivery services that provide proof of delivery.

Further, Affiant sayeth not.


Nick E. Kretchmar

Subscribed and sworn to before me this 14 day of March, 2006.)


NOTARY PUBLIC

COMMISSION EXPIRES:

11/4/07
Commission #99016223

